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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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| 09/327,382 | 06/08/99 | OKUMOTO | M OKUMOTO=1 |

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

EXAMINER

MANAHAN, T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3732

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DATE MAILED:

04/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/327,382

Applicant(s)

Okumoto et al.

Examiner

Todd E. Manahan

Group Art Unit

3732



☒ Responsive to communication(s) filed on 10 Jan 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 10-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 10-13, 15, 18, 21, 24, and 25 is/are rejected.

☒ Claim(s) 14, 16, 17, 19, 20, 22, and 23 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of claims 15 and 21 the functional recitation that "a pilot light when on, blinks at predetermined intervals while said electric heater is energized" is indefinite because it is not supported by recitation in the claim of sufficient structure to accomplish the function.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 12, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaborowski (U.S. Patent No. 4,917,078) in view of Ostrowski (U.S. Patent No. 1,762,792).

Zaborowski discloses the invention essentially as claimed except for both the first and second levers including an electrical heater. As set forth in col. 3, lines 51-53; col. 4, lines 19

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and 20; and col. 5, lines 38-41, and electric heater can be used instead of the fuel burner assembly. As clearly shown in figures 2-4, each plate portion includes ridges around three sides thereof. Ostrowski discloses it is known in the art to provide both plates of a hair styling device with an electric heater. It would have been obvious to one skilled in the art to provide both plates of the device of Zaborowski with an electric heater in view of Ostrowski in order to provide continuous and uniform heat to both plates during the curling operation.

Claims 11, 18, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuji et al. (U.S. Patent No. 5,223,694) in view of Thaler et al. (U.S. Patent No. 4,581,519)).

Tsuji et al. disclose a hair styling device comprising a first lever including a first gripping portion 30, a first plate portion 10 equipped with an electric heater 71, and a first fulcrum portion 41 and a second lever including a second grip portion 40, a second plate portion 20 equipped with an electric heater 81, and a second fulcrum portion pivotally supported by the first fulcrum portion (see figure 2). A spring 35,65 interposed between the levers biases the first and second plate portions in a direction away from each other (see col. 4, lines 40-53). Tsuji et al. disclose the invention as claimed except for the at least one of the plate portions being subjected to flocking from a perimeter to an outside surface thereof. Thaler et al. discloses it is known in the art to provide a curling device with flocking on the heated barrel thereof to firmly grip the hair. It would have been obvious to one skilled in the art to provide the device of Tsuji et al. with flocking on the first and second heated plates in view of Thaler et al. in order to firmly grip the hair. It is to be noted that when the first and second plates are in contact with one another, the

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device may be utilized as a conventional curling iron in which the hair would be wrapped about the barrel formed by the first and second plates and clamped thereto by clamping member 50. Based upon the disclosure of Thaler, it would be this barrel so formed which would be subjected to the flocking.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zaborowski in view of Ostrowski as applied to claim 10 above, and further in view of Dekant (German Patent No.2,615,267).

Dekant discloses placing the fulcrum 14 at an end of the handle (figure 2) or between the handle and the heated plate (figure 1) are known equivalents in the art. Thus to place the fulcrum of the device of Zaborowski between the handle and the plate portions would have been obvious to one skilled in the art in view of Dekant.

Allowable Subject Matter

Claims 14, 16, 17, 19, 20, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 10-13, 18, 24 and 25 have been considered but are moot in view of the new ground(s) of rejection.

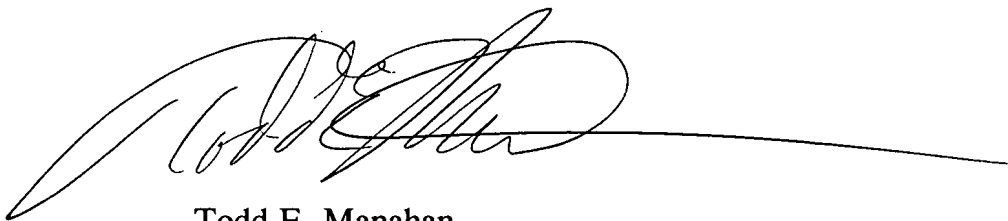
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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is (703) 308-2695.

A handwritten signature in black ink, appearing to read 'Todd E. Manahan', with a long horizontal line extending to the right.

Todd E. Manahan
Primary Examiner
Art Unit 3732

T. E. Manahan
March 30, 2000